



MEDFORD DIVISION

**Case 1:24-CV-1395-IM**

**David White, Pro Se P1**

18965 NW Illahe St,

**Portland OR.**

[dave@salmonprotectiondevice.com](mailto:dave@salmonprotectiondevice.com)

503-608-7611

CLASS ACTION COMPLAINT

\$1 million

Tom Doud Plaintiff Pro Se P2

4254 Chevy Chase Dr, La Cañada

Flintridge, CA, USA 97011

213-248-7832

tdoud4@gmail.com

CONFIRM ECF5

**vs.**

**Defendant 1. (D1)**

**Susana Dietrich**

**601 Jackpine Dr,**

**Grants Pass, OR 97526**

**2140 Bobcat Ave SW**

**Albany, OR 97321-4872**

**mitt@dietrichconst.com**

**541-974-3251**

**Defendant 2. (D2)**

**Mary Lou Soscia in her**

**Personal capacity as President of**

**Water Watch of Oregon**

**Defendant 3 (D3)**

**Bryan Sohlin in his Personal capacity as Vice**

**President of Water Watch of Oregon**

**Defendant 4 (D4)**

**Neil Brandt in his personal capacity as**

**Executive Director of  
Water Watch of Oregon  
503-295-4039x 101  
[neil@waterwatch.org](mailto:neil@waterwatch.org)**

Melanie Klym (D5)  
River Design Group  
311 SW Jefferson Avenue  
Corvallis, Oregon 97333  
Phone: 541.738.2920  
[info@riverdesigngroup.com](mailto:info@riverdesigngroup.com)

---

**Legal Counsel for Water Watch defendants**  
Kaitlin Lovell  
Attorney-Advisor  
213 SW Ash St., Suite 208  
Portland, OR 97204  
213 SW Ash St., Suite 208  
Portland, OR 97204  
(503) 295-4039  
[info@waterwatch.org](mailto:info@waterwatch.org)

Janette Brimmer  
[jbrimmer@earthjustice.org](mailto:jbrimmer@earthjustice.org)  
Molly Tack-Hooper  
[mtackhooper@earthjustice.org](mailto:mtackhooper@earthjustice.org)

---

Plaintiff thanks the court for ECF 5, OPINION AND ORDER GRANTING  
IFP dated 8/26/2024.

In this pleading plaintiff is asking the court for a ruling that email service is  
legal and no court permission is needed. Plaintiff is also introducing Tom  
Doud Plaintiff Pro Se P2. P2 lives downstream of the now illegally removed  
Pomeroy dam and will soon be affected by annual flooding. P2 and Class  
Action members are local stakeholders who have been intimidated and

1 harassed (29 CFR § 1606.8 (1)) by Defendants from WaterWatch. In  
2  
3 addition, these stakeholders are in immediate threat of  
4  
5 flooding now that the Pomeroy dam was illegally removed in August,  
6  
7 2024. Therefore, the identities of the class action members will be  
8  
9 withheld until a trial commences, due to their concerns about further threat  
10  
11 and harassment from Water Watch. Stakeholder affidavits which contain  
12  
13 threatening email from Water Watch employees will be provided at trial.  
14  
15

16  
17 Your honor, our heartfelt plea is for the Court to stand with Plaintiff and  
18  
19 our Class Action members on the side of justice against the violent assaults  
20  
21 on the environment outlined in this Complaint. This complaint contains  
22  
23 clear and convincing evidence of Defendants' illegal and willful destruction  
24  
25 of the Environment.  
26

27 It is high time that pretended environmentalists be held accountable for the  
28  
29 crimes they commit against the environment in the name of defending the  
30  
31 environment. The illegal removal of this dam has and is violating the 7  
32  
33 sacred values entrusted to our state by the Wild and Scenic Rivers Act and  
34  
35 we dare not let it go unpunished. These values are further threatened by  
36  
37 the callous unconcern for potential death and destruction of flood victim's  
38  
39 no longer protected by the Pomeroy Dam.  
40

## TABLE OF AUTHORITIES

1) 18 USC 3 accessory after the fact.....	20, 32
2) 16 USCA § 1532(19);.....	5, 14, 20
3) Scott, J. M. & Karl, J. (1999) “Local and national protection of endangered species: An assessment,” Environmental Science & Policy, 2, pp. 43-59.	
4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on wildlife refuges.....	14, 20
5) The Endangered Species Act of 1973, ..... <a href="https://www.fws.gov/laws/endangered-species-act/section-11">https://www.fws.gov/laws/endangered-species-act/section-11</a> .	5, 14, 20
6) 18 U.S.C. § 1001 False Statements, Concealment.....	29
7) 18 U.S.C. 1621 Perjury.....	29
8) 29 CFR § 1606.8 (1) – Harassment has the purpose or effect of creating an intimidating, hostile or offensive working environment...5, 13, 29, 31, 37	
9) 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404...5, 14, 26	
10) 28 U.S. Code § 4101.....	5
11) 22–451 June 28th, 2024 Loper Bright Enterprises v. Raimondo and Relentless, Inc. v. Department of Commerce. <a href="https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf">https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf</a> .....	6
13) Fed R Civ P 5(d)(3)(C) a complaint does not require a signature if a signature block is present.	
14) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan was Pro Se and made numerous mistakes in filing his complaint resulting in the case being dismissed. However, upon appeal, the higher Court ruled that the lower Court was in error because they did not give allowance for Pagtalunan’s lack of legal training.....	3
Plaintiff also has lack of legal training and respectfully requests the same	

allowance the higher court said Pagtalunan should have received.

15) 33 CFR Part 329 - PART 329—DEFINITION OF NAVIGABLE  
WATERS OF THE UNITED STATES.....11

16)

<https://usace.contentdm.oclc.org/utils/getfile/collection/p16021coll7/id/2009>

9 Nationwide permits for habitat restoration.

17) <https://www.federalregister.gov/documents/2021/01/13/2021-00102/reissuance-and-modification-of-nationwide-permits> Reissuance and  
modification of Nation Wide permits for habitat restoration.

## **JURISDICTION**

### **Basis for Jurisdiction:**

Basis for Jurisdiction is a federal environmental question. The

Pomeroy Dam was located on the Illinois River which flows from Oregon to California then to the ocean. Therefore, this case has Federal Jurisdiction. An Environmental disaster in the Pomeroy Dam removal has resulted from Water Watch D2 and D3 (D23) willful destruction of the environment in violation of known stipulations and restrictions of the Wild and Scenic Rivers Act and Clean Water Act, Section 404. These are in clear violation of the Federal Clean Air and Federal Clean Water Acts of the U.S. Congress.

This case also includes violations of Federal law in killing fish, including endangered Salmon without permits. Additional violations are: 18 USC 3, 16 USCA § 1532, 18

U.S. Code § 41, Item 3 below, The Endangered Species Act of 1973, 18

U.S.C. § 1001, 18 U.S.C. 621, 18 USC 3, 29 CFR § 1606.8, 28 U.S. Code

§ 4101, 33 U.S.C. § 1251, 29 CFR § 1606.8, 28 U.S. Code § 4101, 18

U.S.C. 1743 and FRCP.

1 This Court has jurisdiction, over the subject matter of this complaint,  
 2  
 3 because the illegal and unlawful actions of D23 have violated Federal Law,  
 4 to include (Wild and Scenic Rivers Act, PL 90-542), (Clean Water Act), and  
 5 (Commerce Clause of the Constitution). D1 Is complicit in these statute  
 6 violations by providing WW with its contract for dam removal.

7  
 8 Additionally, This Court has jurisdiction, over the subject matter of this  
 9 Complaint, because of its geographical proximity to the massive  
 10 environmental damage in the Illinois River basin.

11  
 12 Plaintiff presents this Complaint respectfully reminding the Court to  
 13  
 14 convene this case as an article III, of the U.S. Constitution Court, per  
 15  
 16 the recent US Supreme Court ruling in 11) 2024 Loper Bright Enterprises v.  
 17 Raimondo and Relentless, Inc. v. Department of Commerce above. Article  
 18 III, Section 2 of the U. S. Constitution stipulates that “The Judicial Power  
 19 shall extend to all cases in law and equity, arising under this constitution,  
 20 the laws of the United States and Treaties, which will be made under the  
 21 Authority;

22  
 23 - to all cases affecting ambassadors, other public Ministers and  
 24  
 25 Counsels, to controversies to which the United States shall be a party;  
 26  
 27 - to controversies between two or more states, ... between citizens of  
 28  
 29 different states, between a state or the citizens thereof.

30  
 31 First Page, second paragraph, Held: The Administrative Procedure Act  
 32  
 33 requires courts to exercise their independent judgment in deciding whether  
 34 an agency has acted within its statutory authority, and courts may not defer  
 35 to an agency interpretation of the law simply because a statute is  
 36 ambiguous; Chevron is overruled. Pp. 7–35.

37  
 38 ([https://www.foleyhoag.com/news-and-insights/publications/alerts-and-](https://www.foleyhoag.com/news-and-insights/publications/alerts-and-updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-life-sciences-companies/)  
 39 [updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-](https://www.foleyhoag.com/news-and-insights/publications/alerts-and-updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-life-sciences-companies/)  
 40 [life-sciences-companies/](https://www.foleyhoag.com/news-and-insights/publications/alerts-and-updates/2024/july/chevrons-demise-and-what-it-means-for-healthcare-and-life-sciences-companies/) )

1  
2 Therefore, agencies like the Army Corp of Engineers are no longer  
3  
4 permitted to cherry pick data to match their administrative agenda. For  
5  
6 example, about 80% of Pomeroy Dam area residents were strongly  
7  
8 opposed to the dam being removed, however, they were bullied into  
9  
10 signing agreements by threat of legal repercussions. These threats have  
11  
12 had a dampening effect on their willingness to take a stand against tyranny  
13  
14 by joining this Class Action lawsuit.

#### 15 16 17 18 VENUE

19  
20 Venue is proper **for** this Court because the location of the Court is in  
21  
22 the same geographical location as the Illegal act's that are NOW being  
23  
24 perpetrated. The Court's location is close to the environmental damage  
25  
26 incurred and ongoing, allowing for easy visual inspection.

#### 27 28 STANDING

29  
30 The Illinois River's right to a wild and scenic condition is actively being  
31  
32 violated by D23 and D1 the D23's contractor, and therefore the Public  
33  
34 (Plaintiffs and Class action members) have a legal right and duty to speak  
35  
36 on behalf of the Illinois River. In addition, the public's right to enjoyment of  
37  
38 that condition as mandated by Congress has forever been taken away.  
39  
40 Therefore, Plaintiffs have standing. Additionally, this is a class action

1  
2 complaint with class action members and P2 residing in the Illinois Basin.  
3 .  
4  
5

6  
7 **BACKGROUND**  
8

9  
10 Plaintiff heads a legal team of 3 professionals. One is a 40-year veteran  
11 Federal Attorney who is a seasoned expert in the application of Federal  
12 and Case law. Another is an investigative journalist who provides research  
13 and serves as Legal Editor of all Court Documents. With due respect, these  
14 request the Court to reconsider the technical issues on which the former  
15 Pleading was dismissed.  
16  
17

18 Plaintiff filed a class action complaint against the Defendants on August  
19 23rd, 2024 and served them legally. The Court with ECF 5 granted  
20 Plaintiffs IFP and dismissed the case for issues which were mostly not  
21 issues.  
22  
23

24 These issues raised by the Plaintiffs for court clarification are:  
25  
26

27 ECF Page 7  
28  
29

30 c. Federal Rule of Civil Procedure 4  
31  
32

33 In summary of the Court ECF5 c. Federal Rule of Civil Procedure 4,  
34 Plaintiff says email service needs no court approval. The court recognizes  
35 Fed. R. Civ. P. 4(e)(1) and used OR. R. Civ. P. 7(D)(1). However as shown  
36 below ORCP 9 (G) says service by email is an appropriate method of  
37 service.  
38  
39  
40



**ARGUMENT**

Rule 3. Commencing an Action

**A civil action is commenced by filing a complaint with the court.**

1. Rule 5(e) defines what constitutes filing with the court.

2. **This rule governs the commencement of all actions**, including those brought by or against the United States or an officer or agency thereof, regardless of whether service is to be made personally pursuant to Rule 4(d), or otherwise pursuant to Rule 4(e).

4. **This rule provides that the first step in an action is the filing of the complaint.** Under Rule 4(a) this is to be followed forthwith by issuance of a summons and its delivery to an officer for service. Other rules providing for dismissal for failure to prosecute suggest a method available to attack unreasonable delay in prosecuting an action after it has been commenced. When a Federal or State statute of limitations is pleaded as a defense, a question may arise under this rule whether the mere filing of the complaint stops the running of the statute, or whether any further step is required, such as, service of the summons and complaint or their delivery to the marshal for service. The answer to this question may depend on whether it is competent for the Supreme Court, exercising the power to make rules of procedure without affecting substantive rights, to vary the operation of statutes of limitations. The requirement of Rule 4(a) that the clerk shall forthwith issue the summons and deliver it to the marshal for service will reduce the chances of such a question arising.

Therefore, by FRCP 3 the filing of the Complaint starts the 21-day clock, not the Summons. Normally the Summons, after payment of filing fee is made at the same time as the Complaint “forthwith by issuance of a summons and its delivery to an officer for service.” However, for Plaintiff a

1 wait for approval for IFP was needed, thus delaying the Summons. Now  
 2  
 3 since the IFP is approved Plaintiff can serve the Defendants the amended  
 4  
 5 complaint and summons at the same time.

#### 6 7 Federal Rule 4. Summons

8  
9  
10 (b) Issuance. On or after filing the complaint, the plaintiff may present a  
 11 summons to the clerk for signature and seal. If the summons is properly  
 12 completed, the clerk must sign, seal, and issue it to the plaintiff for service  
 13 on the defendant. A summons—or a copy of a summons that is addressed  
 14 to multiple defendants—must be issued for each defendant to be served.

#### 15 16 (c) Service.

17  
18 (1) In General. A summons must be served with a copy of the complaint.  
 19 The plaintiff is responsible for having the summons and complaint served  
 20 within the time allowed by Rule 4(m) and must furnish the necessary copies  
 21 to the person who makes service.

22  
23 (3) By a Marshal or Someone Specially Appointed. At the plaintiff's request,  
 24 the court may order that service be made by a United States marshal or  
 25 deputy marshal or by a person specially appointed by the court. The court  
 26 must so order if the plaintiff is authorized to proceed in forma pauperis  
 27 under 28 U.S.C. §1915 or as a seaman under 28 U.S.C. §1916.

28  
29 In (c) Service. (1) In General. A summons must be served with a copy of  
 30 the complaint.

31  
32 Plaintiffs response;

33  
34 “In general,” can never mean “always.” 1C also doesn’t say the reverse is  
 35 true, that a complaint must be served with a summons.

36  
37 (e) (1) following state law for serving a summons in an action brought in  
 38 courts of general jurisdiction in the state where the district court is located  
 39 or where service is made; or  
 40

(1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; or In Oregon ORCP 9 - Service and filing of pleadings and other papers....”

The court uses Or. R. Civ. P. 7(D)(6)(b), However ORCP 9 (G) supersedes ORCP 7. Therefore, Federal Rule 4 (e) (1) defaults to state law. ORCP 9 is service of documents. ORCP 9 (b) ; by e-mail as provided in section G of this rule; Rule 9 (g) “the service may be made by means of e-mail.” No permission is required.

## RULE 9

**A Service; When Required.** Except as otherwise provided in these rules, every order; every pleading subsequent to the original complaint; every written motion other than one that may be heard ex parte; and every written request, notice, appearance, demand, offer to allow judgment, designation of record on appeal, and similar document shall be served on each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Rule 7.

**B Service; How Made.** Except as otherwise provided in Rule 7 or Rule 8, whenever under these rules service is required or permitted to be made upon a party, and that party is represented by an attorney, the service shall be made on the attorney unless otherwise ordered by the court. Service on the attorney or on a party shall be made by delivering a copy to that attorney or party; by mailing it to the attorney’s or party’s last known address; by e-mail as provided in section G of this rule;

**G Service by E-Mail.** Whenever under these rules service is required or permitted to be made on a party, unless the party or the party’s attorney is exempted from service by e-mail by an order of the court, the service may be made by means of e-mail. Service is complete under this rule on

1 confirmation of receipt of the e-mail or, if the receiving party has consented  
2 to service by e-mail, on transmission of the e-mail.

3  
4  
5 Therefore, Plaintiff will serve the amended Complaint and Summons by the  
6  
7 third party email service thelawisyourattorney.com unless the court rules  
8  
9 otherwise.

### 10 11 12 **CONCLUSION**

13  
14 Email service by FRCP 3 and 4 is legal because Federal Rule 4 defaults to  
15  
16 state law for service. Oregon State law ORCP 9 (G) legalizes email service.  
17  
18 Plaintiff will now amend the complaint while waiting the court to reply for  
19  
20 email service.

### 21 22 23 24 **PRAYER FOR RELIEF**

25  
26 Plaintiff respectfully requests the Federal Court to acknowledge  
27  
28 FRCP 3 and 4 as described above and rule such email service is proper.  
29  
30 Does not the court online system use email service as well?

### 31 32 **Service**

33  
34 Fed. R. Civ. P. 4(e)". says (e)(1) "following state law for serving  
35  
36 a summons in an action brought in courts of general jurisdiction in the state  
37  
38 where the district court is located or where service is made; However, by  
39

Oregon law email service is allowed. UTCR 8 21.10 (2) explains a document may be a pleading or many other documents. Rule 4M states plaintiffs can serve the summons up to 90 days after the complaint is filed.

### **CERTIFICATE OF SERVICE**

I hereby certify that on September 3<sup>rd</sup>, 2024, a true and correct copy of the above document was electronically filed with the Clerk of the Court using CM/ECF. A copy of the document will be served upon interested parties via the Notices of Electronic Filing that are generated by CM/ECF. Additionally, a courtesy copy is being provided as follows:

---

Attorney for Legal Counsel for D23 defendants

Kaitlin Lovell

Attorney-Advisor

213 SW Ash St., Suite 208

Portland, OR 97204

213 SW Ash St., Suite 208

Portland, OR 97204

(503) 295-4039

info@waterwatch.org

Janette Brimmer

1 jbrimmer@earthjustice.org

2  
3 Molly Tack-Hooper

4  
5 mtackhooper@earthjustice.org

6  
7 mitt@dietrichconst.com

8  
9 info@riverdesignngroup.com

10  
11  
12  
13 ☐ Via hand delivery

14 ☐ Via U.S. Mail, 1st Class,  
15 Postage Prepaid

16 ☐ Via Overnight Delivery

17 ☐ Via Facsimile

18 XX Via Email

19 XX Via CM/ECF notification

20 to the extent registered DATED: September 3rd, 2024.

21 By: David White

22  
23 

24 David C. White September 3rd, 2024